

**Introduced by Senator Bowen**

February 22, 2000

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An act to amend Sections 1850 and 2320 of the Probate Code, and to add Section 366.5 to the Welfare and Institutions Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

SB 1641, as introduced, Bowen. Guardians and conservators: dependent children.

(1) Existing law requires the probate court to review each conservatorship one year from the appointment of the conservator and every 2 years thereafter.

This bill would require annual court review of a conservatorship involving a dependent child or dependent children of the juvenile court.

(2) Existing law sets forth the bonding requirements for guardians and conservators, except as specified, unless the court increases or decreases the amount for good cause.

This bill would prohibit a court from decreasing the required amount of the bond in cases involving a dependent child or dependent children of the juvenile court.

(3) Existing law sets forth the procedure for the appointment of a guardian for a dependent child of the juvenile court, as specified.

This bill would require the court, in such cases, to determine the value of the estate of the child, and if it exceeds unspecified dollar amounts to appoint legal counsel to represent the child, to be compensated by the estate at a rate determined by the court. The bill would also require the

Judicial Council to determine the cost of living adjustment to these amounts, as specified, and to publish these adjusted amounts in the California Rules of Court.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1850 of the Probate Code is  
2 amended to read:

3 1850. (a) Except as provided in ~~subdivision~~  
4 *subdivisions* (b) and (c), each conservatorship initiated  
5 pursuant to this part shall be reviewed by the court one  
6 year after the appointment of the conservator and  
7 biennially thereafter.

8 (b) This chapter does not apply to either of the  
9 following:

10 (1) A conservatorship for an absentee as defined in  
11 Section 1403.

12 (2) A conservatorship of the estate for a nonresident of  
13 this state where the conservatee is not present in this  
14 state.

15 (c) *Each conservatorship established pursuant to this*  
16 *part involving a dependent child or dependent children*  
17 *of the court shall be reviewed by the court one year after*  
18 *the appointment of the conservator and annually*  
19 *thereafter.*

20 SEC. 2. Section 2320 of the Probate Code is amended  
21 to read:

22 2320. (a) Except as otherwise provided by statute,  
23 every person appointed as guardian or conservator shall,  
24 before letters are issued, give a bond approved by the  
25 court.

26 (b) The bond shall be for the benefit of the ward or  
27 conservatee and all persons interested in the  
28 guardianship or conservatorship estate and shall be  
29 conditioned upon the faithful execution of the duties of  
30 the office according to law by the guardian or  
31 conservator.

(c) Except as *specified in subdivision (f), or as* otherwise provided by statute, unless the court increases or decreases the amount upon a showing of good cause, the amount of a bond given by an admitted surety insurer shall be the sum of the following:

(1) The value of the personal property of the estate.

(2) The probable annual gross income of all of the property of the estate.

(3) The sum of the probable annual gross payments from the following:

(A) Part 3 (commencing with Section 11000) of, Part 4 (commencing with Section 16000) of, or Part 5 (commencing with Section 17000) of, Division 9 of the Welfare and Institutions Code.

(B) Subchapter II (commencing with Section 401) of, or Part A of Subchapter XVI (commencing with Section 1382) of, Chapter 7 of Title 42 of the United States Code.

(C) Any other public entitlements of the ward or conservatee.

(d) If the bond is given by personal sureties, the amount of the bond shall be twice the amount required for a bond given by an admitted surety insurer.

(e) The Bond and Undertaking Law (Chapter 2 (commencing with Section 995.010) of Title 14 of Part 2 of the Code of Civil Procedure) applies to a bond given under this article, except to the extent inconsistent with this article.

(f) *Notwithstanding any other provision of law, in cases involving a dependent child or dependent children of the court, the court shall not decrease the amount of the bond below the sums required in subdivision (c) and in subdivision (d).*

SEC. 3. Section 366.5 is added to the Welfare and Institutions Code, to read:

366.5. (a) Prior to the appointment of a guardian for a dependent child of the court pursuant to Section 366.26, the court shall determine the value of the estate of the child.

(b) If the estate is determined to exceed \_\_\_\_\_ dollars (\$\_\_\_\_\_) in value, the court shall appoint legal

1 counsel to represent the child, to be compensated by the  
2 estate at a rate determined by the court.

3 (c) The Judicial Council shall annually adjust the  
4 dollar amount set forth in subdivision (b) according to the  
5 cost-of-living adjustment calculated pursuant to Section  
6 9360.9 of the Government Code, and shall publish the  
7 adjusted amounts in the California Rules of Court.

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